



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----x

GUY SPERA, CHARLES SPERA, and
JO-ANN PICCIALLO,

Plaintiffs,

06 Civ. 14310 (DAB) (DFE)
(This is no longer an ECF case.)

- against -

MEMORANDUM AND ORDER

HMC INTERNATIONAL, LLC;
ROBERT M. MASSIMI;
BRET A. GREBOW; and
JOHN DOES 1-10;

Defendants.

-----x

DOUGLAS F. EATON, United States Magistrate Judge.

On March 24, 2009, I held the Initial Case Management Conference in Courtroom 18A. Personally participating was Robert M. Massimi, who is an individual defendant and a principal of the defendant HMC International, LLC. Brian K. Chau, Esq. stated that his law firm Conway & Conway would very soon file a motion requesting to be relieved as counsel for Mr. Massimi and for HMC International, LLC. Plaintiffs' counsel Brian D. Graifman, Esq. emphasized that he wanted to take the deposition of Mr. Massimi in May. I directed Mr. Massimi to appear at 120 Wall Street at 10:00 a.m. on May 19 and 20, 2009 for deposition by plaintiffs' attorney for a maximum of 14 hours of questioning. I confirmed that directive in a Scheduling Order that was mailed to Mr. Massimi's home later on March 24, 2009.

On April 27, 2009, Conway & Conway served and filed a motion that requests me to grant it "immediate" leave to withdraw as legal counsel for Mr. Massimi and HMC International, LLC. And yet the notice of motion sets a leisurely return date of May 28 and asks me to grant "a temporary stay of the action for a reasonable period to allow Defendants to retain new Counsel if they should choose." The annexed affirmation of Kevin P. Conway, Esq. says at ¶18 that Mr. Massimi and HMC International, LLC have said "that they would be unable to pay any of the outstanding balance in their legal fees and that Conway & Conway should pursue withdrawal as ... legal counsel."

I hereby shorten the withdrawal motion's return date from May 28 to May 4, 2009. I direct Mr. Massimi and HMC International, LLC to send me, no later than 4:00 p.m. on Monday, May 4, 2009 (by fax to 212-805-6181), (a) any reason they may

have to oppose my ordering that Conway & Conway be relieved as counsel for defendant Robert M. Massimi and for defendant HMC International, LLC, and (b) any reason they may have for requesting me to adjourn their deposition beyond the previously ordered dates of May 19 and 20, 2009, or to grant a temporary stay of any other aspect of this lawsuit.

A non-individual such as HMC International, LLC is not permitted to defend itself without an attorney. Therefore, if I order that Conway & Conway is relieved as counsel, then HMC International, LLC will be subject to a motion requesting Judge Batts to grant default judgment against HMC International, LLC. An individual such as Mr. Massimi is permitted to defend himself without an attorney. However, I warn Mr. Massimi that I am not inclined to alter my March 24 directive that he must appear on May 19 and 20, 2009 at 120 Wall Street for deposition by plaintiffs' attorney for up to 14 hours of questioning. If Mr. Massimi does not comply with my directive, then he will be subject to a motion requesting Judge Batts to grant default judgment against him.

I warn all parties that I am not inclined to alter any of the deadlines in my March 24 Scheduling Order.

Finally, I warn Mr. Massimi that, if there is any change in his mailing address, fax number, cell phone number, or e-mail address, then he must promptly give written notice of this to me and to plaintiffs' counsel.



DOUGLAS F. EATON
United States Magistrate Judge
500 Pearl Street, Room 1360
New York, New York 10007
Telephone: (212) 805-6175
Fax: (212) 805-6181fax

Dated: New York, New York
April 28, 2009

Copies of this Memorandum and Order will be sent by fax to Robert M. Massini on the evening of 4/28/09, and on 4/29/09 to:

Martin H. Kaplan, Esq.
Brian D. Graifman, Esq.
Gusrae, Kaplan & Bruno
120 Wall Street
New York, NY 10005 (by ECF)

Kevin P. Conway, Esq.
Brian K. Chau, Esq.
Conway & Conway
1700 Broadway, 31st Floor
New York, NY 10019 (by ECF)

HMC International, LLC and
Robert M. Massimi, both
c/o Mr. Robert M. Massimi
110 East Allendale Road
Saddle River, NJ 07458 (by mail, and by fax to 201-327-6848fax)

Mr. Bret A. Grebow
(by e-mail to Bgr13076@aol.com)

Mr. Bret A. Grebow
3570 Ensign Circle
DelRay Beach, FL 33483

Mr. Bret A. Grebow
c/o Vincent Gelardi, Esq.
800 Westchester Avenue
Suite S608
Rye Brook, NY 10573

Hon. Deborah A. Batts